

ASM 97/7

THE

# CASE

Of the PROVINCES of

MASSACHUSETTS-BAY

AND

NEW-YORK,

Respecting the Boundary Line between the two Provinces.

\*\*\*\*\*



\*\*\*\*\*

BOSTON ; NEW-ENGLAND,

Printed by Green and Russell, by Order of his Excellency the GOVERNOR, the Honorable his Majesty's COUNCIL, and the Honorable House of REPRESENTATIVES. 1764.



The Facts and Arguments from which *New-York* deduces it's claim.

Ist. The *Dutch* claimed the Colony of *New-Netherland* as extending from *Cape-Cod* to *Cape-Henlopen* along the Sea-Coast, and as far back into the Country as any of the Rivers within those Limits extend; and they were actually possessed of *Connecticut* River long before any other *European* knew any thing of the Existence of such a River, and were not only possessed of the mouth of it where they had a Fort and Garrison, but discovered the River above an hundred Miles up, had their People trading, and purchased of the Natives almost all the Lands on both sides the River.



IId. That Governor *Stuyvesant* the Dutch Governor of *New-Netherland*, (*New-York*) by his Letters dated *Sept. 2, 1664*, in answer to a Letter from Governor *Richard Nicolls*, of *August 30* preceding, demanding the Surrender of all the Forts and Places of Strength possessed by the *Dutch* under his Command writes as follows, “ Moreover it is without Dispute, and acknowledged by all the World, that our Predecessors by virtue of the Commission and Patent of the Lords the States-Generals have without controul and peaceably, the contrary never coming to our Knowledge, enjoyed *Fort-Orange* about 48 or 50 Years, and *Manhatans* about 41 or 42 Years, the South River 40 Years, and the fresh River about 36 Years.

IIId.



The Answer of the *Massachusetts* to the claim of  
*New-York*.

To the *first* Article. The *Massachusetts* say, that one *Henry Hudson* an Englishman having made several Voyages under a Commission from King JAMES, in the Employ of certain Merchants for the Discovery of a Northwest Passage, upon some Misunderstanding, engaged in the Year 1609 in *Dutch* Employ upon the same Design, and upon his Return ranged along the Sea Coast, which three Years before had been granted by King JAMES to his English Subjects, and entered *Hudson's River* giving it his own Name, and sailed up in his Boat as far as what has been since called *Aurania* or *Albany*. It does not appear that he had a Dutchman on board: His Mate was *Robert Ivet* an Englishman. The *Dutch West-India Company* in 1613, sent some Persons to this River to trade with the *Indians*. Sir *Samuel Argal*, who was then in *Virginia*, to maintain the *English* Right to the whole Sea Coast, first cleared all *Acadia* of the *French*, then went to *Hudson's River* in order to remove the *Dutch*, but they acknowledged their Subjection to the Crown of *England*, and to the Government of *Virginia*, and upon those Terms he suffered them to remain. There is not any Evidence from History that ever a Dutchman was between *Cape-Cod* and *Cape-Henlopen* before this. That this Factory might trade with the *Indians* upon the Sound and those of *Connecticut River* is not improbable. Mr. *Smith* the Author of the History of *New-York* says they had a Fort at *Connecticut* in 1623. A Flankart probably to their trading House, or it may be Stockadoes or Palisadoes round it. Be it one or the other they were *English* Subjects or they would have been removed. Sir *Ferdinando Gorges* in his History says, that Complaint was made to the States of these Intruders, and they utterly disowned the Business.

To the *second*. That the *Dutch* had Possession of *Hudson's River*, obtained as has been represented is not denied, but the Assertion so far as it relates to the fresh River, which is the same as *Connecticut River*, is false in fact, the tortious Possession which they had being of short duration, as will appear by incontestable Evidence, when we shall set forth the *Massachusetts* Title.



*New-York.*

III. That the *Dutch* Governor *Stuyvesant* did in the Year 1664, surrender all the Country which the *Dutch* did then possess to King CHARLES the second; and the States General made a Cession thereof by the Treaty of *Breda* in the Year 1667; that the *Dutch* reconquered part of the Province in 1673, and surrendered and absolutely yielded it to King CHARLES II<sup>d</sup>, in 1673-4, by the Treaty of *London*; and that in the Year 1674, King CHARLES granted to the Duke of *York* all the Lands between *Connecticut* River and *Delaware* Bay, the whole of these Lands being part of the former Colony of *New-Netherland*.

IV. That the Duke of *York* in his several Commissions to Major *Edmund Andross* and to Governor *Dongan* among other Descriptions of the Boundaries of *New-York*, mentions all the Land from the west side of *Connecticut* River to the east side of *Delaware* Bay: That their Majesties King WILLIAM and Queen MARY, by their Commission bearing date the fourth Day of *January*, in the first Year of their Majesties Reign, appointed *Henry Slaughter* to be Governor of *New-York* and Territories depending thereon, the Boundaries whereof to *Connecticut* River on the East were notorious, by the Grant and other Commissions aforesaid, and many other Grants and Commissions relating to the same.

V. That *Connecticut* River continued the East Bounds of *New-York* until 28th of *March* 1700, when by King WILLIAM's Confirmation of an Agreement between that Province and *Connecticut*, the western Bounds of *Connecticut* were settled at 20 Miles from *Hudson's* River; and they cannot find any other Alterations in the Eastern Bounds of that Province, and have no reason to believe any other was made before or since that Time.

VI. That King JAMES I<sup>st</sup>, by Letters Patents bearing date the third of *November*, in the eighteenth Year of his Reign granted unto the Council of *Plymouth*, from 40 to 48 degrees of North Latitude inclusive, in which there is a Recital to this Purpose,  
“ Now



*Massachusetts.*

To the *third*. That the *Dutch* Governor surrendered all that he was possessed of is allowed, but that he was possessed of any Part of the Lands claimed by the *Massachusetts* is denied. What he surrendered was also *restored* rather than *ceded* by the Treaty of *Breda*, and afterwards by the Treaty of *London*. And altho' King *CHARLES* might grant to the Duke of *York* all the Lands between *Connecticut* River and *Delaware* Bay, yet it will not be allowed that the whole of these Lands were part of the former Colony of *New-Netherland*, or that the right of granting the Lands in Controversy was at that Time in the Crown.

To the *fourth*. The Commissions to *Andros* and *Dongan* could not take away any Right from the *Massachusetts* which they had by a Charter previous to those Commissions. It happens very unfortunately for *New-York* that *Andros* was afterwards Governor of both Provinces at the same Time, and although his Commission for *New-York* extended to *Connecticut* River, yet as Governor of *New-England* he exercised Jurisdiction over the Lands west of *Connecticut* River, great Part of *Springfield* and the whole Towns of *Suffield* and *Westfield*, lying to the Westward of that River, and had been settled under the *Massachusetts* many Years. The Commission to *Slaughter* varying from the former to *Andros* and *Dongan*, is a very strong Argument against the claim of *New-York*. The Bounds of the *Massachusetts* were then in view, the New Charter was then soliciting, and passed the Seals soon after. There would have been a plain interfering in the two Grants if the Commission for *New-York* had been in the Words of former Commissions. No other Reason can be assigned for the variance.

To the *fifth*. *Connecticut* for the sake of peace and the quiet Possession of their settled Towns within 10 or 12 Miles of *Hudson's* River gave up their Claim to a Tract of unsettled, and much of it poor Country. That no Settlement had been made before this, is denied. The *Dutch* fifty Years before had relinquished all claim to any Lands East of the Towns referred to, as will appear in deducing the *Massachusetts* Title.

To the *sixth* Article. That the State and Circumstances of the Continent or Sea-Coast from 40 to 48 Degrees were well known in *Europe* in the Year 1620, when the Patent from King *JAMES* was granted or issued, Sir *Samuel Argall* in the Year



*New-York.*

“ Now forasmuch as the King has been certainly given to understand by divers good Subjects that have for these many Years frequented those Coasts and Territories between the Degrees of 40 and 48, that there are no other Subjects of any Christian King or State, or by any Authority from their Sovereign Lords or Princes actually in Possession of any the said Lands or Precincts, whereby any Right, Claim, Interest or Title, may or ought by that means to accrue or belong to them, &c.” And also a Proviso in these Words, “ Provided always that the said Lands, Islands, or any of the Premises by the said Letters Patents, intended or meant to be granted, were not then actually possessed or inhabited by any other Christian Power or State,” which Patent could not vest any Thing in the Grantees, by reason of the said Recital and Condition upon which it was granted. Part of the Premises being then actually possessed by the *Dutch*, and most of the said Colony of *New-Netherland* being within the Bounds thereof.

VII. That on the 19th *March* 1628, the Council of *Plymouth* granted to Sir *Henry Roswell* and others, part of what was supposed to be granted by the said Letters Patents, but the Patent being void the Grant founded upon it is also void.

VIII. That the said Sir *Henry Roswell* and others obtained a Grant and Confirmation thereof from the Crown under the Great Seal of *England*, dated the fourth of *March*, in the fourth Year of King *CHARLES* Ist, within which Grant and Confirmation the Province of *Massachusetts-Bay* is included ; which Grant and Confirmation were adjudged void in the High Court of Chancery



*Massachusetts.*

1613, having ranged the whole Coast, and the *Dutch* having afterwards disclaimed all Right to the particular Part in which some of their Subjects were trading. This Exception and Proviso is truly and universally allowed to have been thought necessary from a false Apprehension of the distance from the Sea-Coast of this Continent to the pacifick Ocean or South-Sea. Indeed, if the Geography had been well understood, yet such Exception would have been very proper, since the whole Extent of Country from one Sea to the other was granted; and there was no room to doubt that the King of Spain would challenge as his right all the Country upon the pacifick Ocean, although as far North as *California*, which would fall within the Latitude of these Colonies. Besides, if it were possible to conceive that this Exception had any respect to the *Dutch*, it could intend no more than to except what was then actually possessed by them, which was at most a small trading House on the west side of the River at or near *Albany*.

To the *seventh* Article. If *New-York* intend no more than that the Letters Patent are so far void as respects the Countries excepted, the Answer to the former Article will be sufficient for an Answer to this. If they intend that from the uncertainty of the Lands excepted, the whole Letters Patents were void, there is but little colour in Law and none in Equity to suppose this Intention. Where Debts or Duties are granted without saying in particular what Duties, &c, the Kings Grants may be void by reason of Uncertainty, but a Grant is good where it is capable of being reduced to a Certainty. The Standard referred to, viz. such Lands as were possessed by any other Christian Prince or State was capable of being reduced to a Certainty and the Grant becomes certain. It would be directly against Equity to admit these Letters Patents to be void, as a great Part of the Continent has been possessed by virtue of Grants derived from them, the validity of which for more than an hundred Years together has never been questioned.

To the *eighth* and *ninth* Articles. The *Massachusetts* say that it is true that the Charter to the old Colony of the *Massachusetts-Bay* however irregular the Proceedings were, was adjudged or decreed to be forfeited, but they say that the Patent from the Council of *Plymouth* to Sir *Henry Roswell* and others remained in force, and that within the said Patent and Charter were included



*New-York.*

cery of *England* in the Year 1684. Nothing to the westward of *Connecticut* River could pass by that Grant and Confirmation, for his Majesty could not have an Intention to grant what was then possessed by the *Dutch*, as before mentioned.

IX. That the Inhabitants of the *Massachusetts-Bay* can claim nothing at present but what is granted them by their last Charter in 1691, all their other Grants and Charters being void in themselves or declared so in the Chancery of *England*.

X. That the Bounds granted by this Charter are westward as far as the Colonies of *Rhode-Island*, *Connecticut*, and the *Narraganset* Country, which Words being in the case of a Grant from the Crown, cannot extend their Bounds farther than to *Connecticut* Colony and therefore not to *Connecticut* River, and much less to the westward of it, because *Connecticut* itself at the Time of that Charter did not in the knowledge of the Crown extend westward of that River, nor did till nine Years after, when by the Royal Approbation the Agreement between the Province of *New-York* and that Colony took place, (which was not to be in force until such Approbation) and the bounds of that Colony were settled as before mentioned; and it is against reason to suppose that the Crown intended by that Charter to grant any part of *New-York* under the then immediate Government of the Crown without express mention thereof in the Charter, and without Notification thereof to *Henry Slaughter* then Governor of *New-York*, that the Crown had granted such a Part of what was before within his Jurisdiction by their Majesties Commission to him as aforesaid.

XI. That



*Massachusetts.*

cluded all the Lands within the Latitudes described from the Atlantick to the South Sea, which the Subjects of any Christian Prince or State by authority from their Sovereign were not in actual Possession of --- That the *Dutch* were then in Possession of a small Part only of the Lands in Controversy, and that without any authority from the States --- And further that all the Lands which were granted by the Patent and Charter to the old Colony of *Massachusetts-Bay* were restored, and granted or confirmed by the Charter of King WILLIAM and Queen MARY in 1691 to the Province of *Massachusetts-Bay*.

To the *tenth* Article. It is proper to observe in the first Place, that although when a Grant is made by the Crown at the suit of the Party it shall be construed most beneficially for the King and against the Party, yet when a Grant is made by the Crown *ex speciali Gratiâ certâ scientiâ & mero motu*, then it is otherwise, and the general Rule takes place, that the Construction shall be in favour of the Grantee, and this is common Learning, and therefore more strange that any stress should be laid upon the *Massachusetts* Charter being a Royal Grant, seeing it was of special Grace, certain Knowledge, &c --- But there is no need of a very liberal Construction. The Expression must be tortured to give it any other sense than what the *Massachusetts* give it. *Rhode-Island* Colony lies East of *Connecticut*: According to the Construction given by *New-York* the *Massachusetts* Province might be understood to extend no farther than until it met *Rhode-Island* little more than thirty Miles from the Sea, or if to *Connecticut* Corner it would extend but about 50 Miles: How absurd would it be when all the Lands in the old Colony were made part of the new Province, and the settled Towns in that Colony were known to lie above 100 Miles west from the Sea, to suppose that the new Province should extend westward no more than 30 or at farthest 50 Miles? To say that King WILLIAM could not intend to include any part of *New-York* which he had just before given a Commission to *Slaughter* to govern, is begging the Question and supposing *New-York* to be of that extent which they claim for it, but have neither Law nor Equity to support. The Boundary between *New-York* and *Connecticut* was then well known, and had been settled first by the *Dutch* and afterwards by King CHARLES II<sup>d</sup> His Commissioners in 1664, and that Colony in 1701, was intimidated by the Name of a King's Province, and gave up what it had a just Title to.



*New-York.*

XI. That the Manor of *Livingstone* was granted by *New-York* in 1686, and *Westenbook* (*Houjatonock* or *Sheffield*) in 1735, and that the Lands contained within the Patents are within the Jurisdiction of *New-York* being both west of *Connecticut* River.

XII. That the Attempts of the Inhabitants of the *Massachusetts-Bay* to make Encroachments upon Lands granted by Letters Patents under the Great Seal of *New-York* or upon any Lands within the Jurisdiction of that Province are disrespectful to his Majesty's Authority, and tend to the disturbance of his Majesty's Subjects of that Province, and may be the Cause of great Mischiefs and Disorders.

XIII. That the Steps taken by the Inhabitants of that Province, even were the bounds of *New-York* doubtful and unsettled, are intrusions and disrespectful to his Majesty's Authority.



*Massachusetts.*

To the *eleventh* Article. The Manor of *Livingstone* being a tract of Country about 20 Miles square, is said to have been obtained under colour of a Grant from the *Indians* of 12 or 1400 Acres : That of *Westenhook* was granted when the *Massachusetts* were taking Measures for the Settlement of it and in order to defeat those Measures.

To the *twelfth* and *thirteenth* Articles. It is always considered as an aggravation of an Offence that it is committed under colour of lawful Authority. The right of the Lands must first be determined before it can be determined which Province has shewn disrespect to Royal Authority. If merely stretching a Line of Jurisdiction by an enormous Patent shall give an exclusive right, *New-York* might just as well have extended their Claim and Grants to *Merrimack* River, and then the whole Colony of the *Massachusetts-Bay* would have been swallowed up. To make use of the King's Name for the Purposes of such Grants is certainly a greater affront to Majesty than for a number of industrious People by their Labour to cultivate the Lands contained in those Grants, and render a part of his Majesty's Dominions valuable which were of no value before.

THE several foregoing Articles contain the whole of what has been offered on the part of *New-York* in support of their Claim, they being the Heads of the report of a Committee of the Council of that Province upon the Petition of Mr. *Livingstone* and others in the Year 1753. The several Answers of the *Massachusetts* to those Articles are sufficient to shew that *New-York* has no colour of Title to the Lands in Controversy, but the Title of the *Massachusetts* being founded upon the most clear and express Grants of the Crown, and upon ancient claim and possession of such Grants as far as the Circumstances of the Country and the several parts of it included in those Grants would admit, it may not be improper more particularly to set forth and elucidate this Title.

The Title of the *Massachusetts-Bay* to certain Lands claimed by the Province of *New-York*.

1597. The right of the Crown of *England* to the Northern Continent of *America*, is universally known to be founded upon the discovery of it made by the *Cabots* in 1597.

1606.



1606. King JAMES the first, by Patent divides that part of the Continent between 34 and 45 degrees into two Colonies, grants the first or Southern to the *London*, the second or Northern to the *Plymouth* Company.
1609. *Henry Hudson* an *Englishman*, having made two Voyages in the Service of *English* Merchants on discovery towards *Nova Zembla* in the Years 1607 and 1608, made a third this Year in the employ of *Dutch* Merchants, and on his return to *Dartmouth* in *England*, coasted along the Shoar of *North-America* and entred the River since called by his own Name *Hudson's River*, and sailed many Leagues up the same.
1613. The *Dutch* Merchants had sent some Persons to trade with the *Indians*. Sir *Samuel Argall* with several Ships sailed from *Virginia* in order to clear the Coast of all Foreigners who should attempt any Settlement, and first routed all the *French* in *Acadie*, and then proceeded to *Hudson's River* to do the same by the *Dutch*, but they disclaiming all pretence to the Country, and desiring to continue as *English* Subjects for the sake of Trade he did not remove them. Complaint was afterwards made by the King to the States, (the particular Year not mentioned) of these intruders, but the States disowned them and laid no Claim to any part of the Country.
1620. King JAMES the first by Patent constitutes the Council of *Plymouth*, and grants that part of the Continent which lies between the 40th and 48th Degree excepting such Part thereof as was not actually possessed by lawful Authority from any other Christian Prince or State.

*Note*, It is not possible that by this Exception could be intended a few stragling Dutchmen at *Hudson's River* who a few Years before had desired to be received as the King's Subjects, and who had been disowned by the States.

The same Years 1620, the first Settlers of the Colony of *Plymouth* procured a Patent for the Country about *Hudson's River*, and actually sailed from *England* September 6, but their Pilot bribed, by the *Dutch* Merchants, carried them to the Northward, and they fell in about *Cape-Cod*, landed and laid the foundation of a Colony since called *New-Plymouth*.

1627. The



1627. The Council of *Plymouth* grant to Sir *Henry Roswell* and others, the Country between three Miles North of *Merrimack* River and three Miles South of *Charles* River in breadth, and to extend in length from the Atlantick Ocean to the South Sea.
1628. King CHARLES the first by Letters Patent grants and confirms the Lands, thus before granted by the Council of *Plymouth*, to the said Sir *Henry Roswell*, his Associates and their Assigns, together with Powers of Government with this Proviso, That if the said Lands or any of them were in Possession of any Christian Prince or State the third Day of *November* 1620, the Grant so far as it respected such Lands was to be void.
1631. *Waghumacut* a Sagamore upon *Connecticut* River came to *Boston* to Mr. *Wintthrop* the Governor and desired the *English* to plant and settle in his Country, and that two Men might be sent to see the Country, &c. This minute made by Mr. *Wintthrop* in his Journal is the earliest Memorial of *Connecticut* River among the *English*.
1633. Mr. *Winslow* Governor of *New-Plymouth* writes to Mr. *Winslow* Governor of the *Massachusetts* that their People  
Sept. had been up *Connecticut* River, that they forbad the *Dutch*  
26. making any Settlements there, and that they had set up a trading House themselves; and agreeable hereto the Commissioners for the united Colonies in *New-England* in a Declaration against the *Dutch* in 1653 say, That Mr. *Winslow* one of the Commissioners for *Plymouth* discovered the Fresh River when the *Dutch* had neither trading House nor any pretence to a foot of Land there.
1636. The *Massachusetts* extended their Settlement as far West as *Connecticut* River, *Springfield* containing what is since called *Suffield*, as also *Windsor*, *Hartford* and *Weathersfield* being settled this Year, and their first Settlements were began on the West side of the River. The *English* had then a Fort at the mouth of the River built by the Lords *Say* and *Brook*, and called *Saybrook* Fort. The *Dutch* had a House at *Hartford* for Trade with the *Indians*, and were suffered to continue there many Years, but always subject to the *English* Government.



1637. *Theophilus Eaton* at the Head of another Colony from the *Massachusetts* began a Settlement at *Newhaven*, and extended Westward in a few Years to the Town of *Greenwich*, within 15 Miles of *Hudson's River*. The rapid increase of the *English* Settlements gave the *Dutch* at *Manhatoes* just grounds to fear a removal, and after many altercations between them and the Colony of *Newhaven*, both Parties agreed to submit the determination of the future Boundary to four Persons, two chosen by each Party, and in the Year 1650, the Line was settled as follows.

1650. 1st. That upon Long-Island a line run from the Westernmost Part of the Oyster Bay, and so in a strait and direct line to the Sea, shall be the bounds betwixt the *English* and the *Dutch* there, the Easternmost Part to belong to the *English*, the Westernmost Part to the *Dutch*.

2d. The bounds upon the Main to begin at the West side of *Greenwich Bay*, being about four Miles from *Stamford*, and so to run a Northerly line twenty Miles up into the Country, and after as it shall be agreed by the two Governments of the *Dutch* and of *Newhaven*, *Provided* the said line come not within ten Miles of *Hudson's River*. And it is agreed that the *Dutch* shall not at any Time hereafter build any House or Habitation within six Miles of the said line. The Inhabitants of *Greenwich* to remain till further consideration thereof be had, under the Government of the *Dutch*.

3d. That the *Dutch* shall hold and enjoy all the Lands in *Hartford* that they are actually possessed of, known or set out by certain marks or bounds, and all the remainder of said Lands on both sides of *Connecticut River*, to be and remain to the *English* there. And it is agreed that the afore-said bounds and limits both upon the Island and the Main, shall be observed and kept inviolable both by the *English* of the united Colonies and all the Nation, without any Encroachment or Molestation, until a full and final Determination be agreed on in *Europe* by the mutual consent of the two States of *England* and *Holland*.

In Testimony of our joint Consent to the several foregoing Conclusions we have hereunto set our Hands and Seal this 19th Day of *September*, Anno Domini 1650.

SYMON BRADSTREET,  
THOMAS PRINCE,

THOMAS WILLET,  
GEORGE BAXTER.

This



This Agreement was confirmed by the States, as appears by the following Extract of a Letter from *Stuyvesant* the Dutch Governor to the Commissioners. " The Limits  
 " between your Honour's and our Delegates in the Year  
 " 1650, agreed and settled both upon the *Maine* and *Long-*  
 " *Island* between *New-England* and that our intrusted  
 " Government are according to the Articles of Agreement  
 " ratified and confirmed by our Lords Superiors the High  
 " and Mighty the States General of the united *Belgick*  
 " Provinces, and under their Signature and Seal sent unto  
 " us, and shewed unto Capt. *Willet*. The Approbation  
 " and Confirmation of his Highness the Lord Protector  
 " being ready your Honours will be pleased to appoint  
 " Time and Place for the Delivery and interchanging of  
 " the Principals."

1654. *Oliver Cromwell* by his Letter charges the Government of the *Massachusetts* with neglect in suffering the *Dutch* to gain and hold Possession of the Country.

1659 The General Court of the *Massachusetts* grants to *William*  
 May. *Hathorne* and others a Plantation of ten Miles square 40 or 50 Miles from *Springfield* to the Westward about two thirds of the way to *Aurania*, provided they begin it in 18 Months.

Octo. The General Court of the *Massachusetts* Colony ordered that a present Claim should be made of their just Rights upon *Hudson's* River near the Fort of *Aurania*, by a Letter from the Court to the *Dutch* Governor, desiring that free Liberty be permitted according to the Custom of Nations by their Forts to or from such Town or Towns as shall be erected there within our Jurisdiction, and ordered the same Letter to be delivered to Major *William Hathorne*, and Mr. *John Richard* Messengers, and granted to *Thomas Clark* and others, the Trade within 15 Miles of the River for the Term of 12 Years.

1660. The same Court appointed Major *Humphrey Atherton*  
 May. and others, a Committee to run the South Line of the Colony, and continue the same forty Miles more or less, on the South West side of *Hudson's* River.

1662. King CHARLES the second grants to *John Winthrop*  
 April and others, all that Part of *New-England* in *America*,  
 23. bounded on the East by *Narraganset-Bay*, where the said  
 River



River falleth into the Sea, and in Longitude as the Line of the *Massachusetts* Colony running from East to West, that is to say from the said *Narraganset-Bay* on the East, to the South Sea on the West Part with all Islands, &c.

1664. The *Dutch* surrendered the whole of their Settlements to  
 Aug. Colonel *Nichols*, and on the first Day of *December* following  
 27. *Nichols*, *Cartwright* and *Maverick* three of four Commissioners appointed by King CHARLES to settle the Bounds of the Colonies, settled by Treaty with *John Winthrop*, Esq; and others Commissioners from the Colony of *Connecticut* the Bounds of that Colony as follows, viz. That the Southern Bounds be the Sea, that the Creek or River called *Mamoconeek* reputed to be about 13 Miles East of *Westchester* and a Line drawn from the East Point or side where the fresh Water falls into the Salt at highwater Mark North Northwest to the Line of the *Massachusetts* be the western Bounds of the said Colony of *Connecticut*. All Plantations West of that Creek to be under his Royal Highness, and all Plantations East to be under the Government of *Connecticut*. It is said this Line would soon intersect the River, and that it must have been occasioned by Fraud or through ignorance of the Geography of the Country.
1664. King CHARLES the second grants to the Duke of *York*  
 Mar. the Country from *St. Croix* to *Pemaquid*, the Island of  
 12. *Matowacks* or Long-Island, and after that as follows, viz. and the narrow *Higansets* abutting upon the main Land between the two Rivers there, called or known by the Names of *Connecticut* and *Hudson's River*, together also with the said River called *Hudson's River*, and all the Land from the west side of *Connecticut* River to the east side of *Delaware Bay*, &c. After which follows the following extraordinary Clause, “ And lastly our Will and Pleasure is  
 “ and we do hereby declare and grant that these our Letters Patents or the Enrollments thereof shall be good  
 “ and effectual in the Law to all Intents and Purposes  
 “ whatsoever, notwithstanding the not reciting or mentioning of the Premises or any Part thereof, or the Meets  
 “ and Bounds thereof, or of any former or other Letters  
 “ Patents or Grants heretofore made or granted of the  
 “ Premises or of any Part thereof by us, or any of our  
 “ Progenitors unto any other Person or Persons whatsoever, Bodies Politick or Corporate, or any Act, Law or  
 “ other Restraint, Incertainty or Imperfection to the contrary in any wise notwithstanding.

This



This Grant although dated *March* 12, 1664, is said to have been prior to the surrender of the *Manbadoes*, if so, the Year must have began before the 25th of *March*.

1684. Colonel *Dongan* Governor of *New-York* settled a new line with *Robert Treat* Governor of *Connecticut*, which line *Connecticut* endeavoured afterwards to recede from, but finally was forced to abide by it.

1691. King *WILLIAM* and Queen *MARY* grant the Charter of Oct. 7. the Province of *Massachusetts-Bay*, in which after reciting the Charter to the Council of *Plymouth*, the Grants from the Council of *Plymouth*, and also the Grants from the Crown to Sir *Henry Roswell* and others, they then proceed to describe the several Colonies and other Lands to be incorporated into one Province, viz. the Territories and Colonies commonly called the Colony of the *Massachusetts-Bay*, the Colony of *New-Plymouth*, the Province of *Maine*, the Territory called *Accady* or *Nova-Scotia*, and all that Tract of Land lying between the said Territories of *Nova Scotia* and the Province of *Maine*; these several Colonies and Territories are erected and incorporated into one Province: And then the bounds of the Colonies of *Massachusetts-Bay* and *New-Plymouth* are thus described, viz. all that part of *New-England* in *America* lying and extending from the great River *Manomack* or *Merrimack*, and three Miles Northward of said River on the North part, the Atlantick or western Sea on the South part, and all the Lands within the Limits aforesaid, extending as far as the outermost Points or Promontories of Land called *Cape-Cod* and *Cape-Malabar* in Latitude and Breadth, and in Length and Longitude of and within all the Breadth aforesaid throughout the main Land there, from the said Atlantick or western Sea and Ocean on the East part towards the South Sea, or Westward as far as our Colonies of *Rhode-Island*, *Connecticut* and the *Narraganset* Country.

Then follows a description of the Province of *Maine*, all which together with half the Isles of Shoals, the Islands of *Capawock*, *Nantucket*, &c. are granted to the Inhabitants of the Province of *Massachusetts-Bay*. By the same Charter Power is given to the Governors and General Assembly to make grants of Lands within the Bounds of the Colonies of *Massachusetts-Bay*, and *New-Plymouth* and the Province of *Maine*, in such Manner as they might heretofore have done



by virtue of any former Charter. From the foregoing brief state of the Case may be fairly deduced as follows,

- 1st. That the Patent of King JAMES in 1606 included all the Lands now claimed by *New-York*, and no Grant or Permission from any foreign Prince or State to settle any Part of those Lands could be of any validity.
- 2d. The acknowledgment by the *Dutch* at *Hudson's River* of subjection to the Crown of *England* made to Sir *Samuel Argall*, the disowning of any Settlement there by the States General and the Patent to the first Settlers of *New-Plymouth*, and their intention of settling at *Hudson's River* demonstrate that by the Exception in the Charter or Patent to the Council of *Plymouth* of any Lands inhabited by the Subjects of any Christian Prince or State, these Lands could not be intended.
- 3dly. That the Grant from the Council of *Plymouth* to Sir *Henry Roswell* and others, which was confirmed by King CHARLES the first by the first Charter to the *Massachusetts-Bay*, evidently comprehended the whole of the Province of *New-York*, to the Northward of three Miles North of *Charles River*, or the *Massachusetts* South Line; and *New-York* can challenge no Right or Title whatsoever, to any Part of the Lands within the Limits of that Charter, unless consideration be had in equity of any Expence in settling and cultivating any Part of said Lands.
- 4thly. That the Government of the *Massachusetts* have from Time to Time done all that could reasonably be expected for cultivating and improving the Country within the bounds of their Charters. That in the Year 1636 and within seven Years of the first Settlement of the Town of *Boston*, they extended their Settlements one hundred Miles West of the said Town, and to the western side of *Connecticut River*. That in the Year 1659 they ordered a Survey of their Patent forty Miles West of *Albany*, and were taking Measures for extending their Trade and Settlements there, and in all probability would have effected it if they had not been prevented by the removal of the *Dutch* Government and the constituting a new Government by virtue of a Grant to the Duke of *York*, which included by far the greatest Part of the *Massachusetts* Colony.

If



If that extraordinary Clause in the Grant to the Duke of *York* vacating all former Grants of any part of the premises is not sufficient to render the Grant illegal and void in every part, yet it argues very strongly that at the Time of making the Grant it was known and understood to encroach upon other Grants which had been made by King CHARLES himself as well as his Predecessors; and it is certain that the Grant must be void, at least so far as respects the Lands which the Colony of the *Massachusetts* by virtue of their Charter, or which any other Bodies Politick or particular Persons at the Time of such Grant were legally in Possession of. Now if it was thus void from the beginning it must have remained so, notwithstanding the Charter to the *Massachusetts* Colony by a Judgment in 1684 was vacated. Besides, although the Charter of King CHARLES Ist, was vacated by the Judgment aforesaid, yet the Grant from the Council of *Plymouth* remained in force. The Council of *Plymouth* it is confessed could not grant Powers of Government, and therefore the Charter of King CHARLES was necessary, but the grant of the Soil was good and would have remained so if no Charter from the Crown had ever been granted, and many tracts of Land granted to particular Persons and Companies are held to this Day by their Successors under the original Patents from the Council of *Plymouth*.

Upon the Accession of the Duke of *York* to the Crown of *England* in 1684, all the Title acquired by virtue of the Grant aforesaid was merged in the Crown. This doctrine has always been established where the *Gothick* Governments have taken Place. If it should now be disputed, and it should be supposed to remain King JAMES's private Estate, yet there was a forfeiture at the Time of his being in Arms in *Ireland*, and King JAMES's private Estate in *Ireland* upon one or both of those principles vested in the Crown. Therefore whether the Lands in the Grant to the Duke of *York* upon the Abdication of King JAMES came with the Crown to King WILLIAM and Queen MARY, or whether they were forfeited, it is certain that before the Charter to the *Massachusetts* Province in 1691 the Right was in the Crown. And King WILLIAM and Queen MARY granted to the Province of *Massachusetts-Bay* all the Lands which by the Charter of King CHARLES the first had been before granted to the Colony of the *Massachusetts-Bay*. It is acknowledged that there are inaccuracies in several Parts of the said



said Charter, but the Construction of particular parts or of expressions which are doubtful and uncertain in themselves, must be governed and made certain by the general scope and design of the whole. Now by the Charter to the Province, the Grant of the Lands to the *Massachusetts* Colony and the Confirmation thereof by King CHARLES and the bounds which are intelligible and clearly described, are all particularly recited, and this Colony thus described with other Lands are incorporated into one Province, and Power is given to the Government of the new Province to grant all Lands which are contained in the old Colony without the exception of one Acre. If there be any ambiguity in the description of the boundary lines of this Province, shall it not then be made to conform to the boundaries of the several parcels of Lands which are thus incorporated together? The whole of the Colonies and other Territories incorporated would have made one entire tract of Country if the Province of *New-Hampshire* had not made a separation. The Colony of *Massachusetts-Bay* and Colony of *New-Plymouth* lay on one side of *New-Hampshire*. These two Colonies whose boundaries each of them separate had been described with sufficient certainty, the Province Charter attempts to describe when they are united. The only variance or seeming variance which can affect the present dispute is this---In the first Charter the Longitude is thus expressed, "From the Atlantick or Western Sea or Ocean on the East part to the South Sea on the West part." The Words in the new Charter are "From the Atlantick or Western Sea and Ocean on the East part towards the South Sea or Westward as far as our Colonies of *Rhode-Island*, *Connecticut* and the *Narragansett* Country." The Construction which *New-York* puts upon the Expression is this "Westward until it meets with *Rhode-Island*, *Connecticut*, and the *Narragansett* Country." The *Massachusetts* construe Westward, as far as either *Rhode-Island*, *Connecticut* or *Narragansett* extend. Now nothing can be more natural than this Construction. The Southern boundary of the old Colony of *Massachusetts-Bay* was the Northern bounday of *New-Plymouth*, *Rhode-Island*, *Connecticut* and *Narragansett*. When *New-Plymouth* and the *Massachusetts* were united, the other three only remained the Southern boundary, and by extending a West line as far as *Rhode-Island*, *Connecticut*, and *Narragansett* extends, is only in other Words bounding the Province South on those Governments, which  
were



were all bounded North upon the old Colony of the *Massachusetts-Bay*. Upon the Construction which *New-York* make, the Southern line of the *Massachusetts* Province must terminate as soon as it has ran as far as the North East Corner of *Rhode-Island* Government, or at farthest the North East Corner of *Connecticut*. This would contain not a tenth part of the old Colony of *Massachusetts* when the whole is incorporated. How ridiculous an expression is it, to describe a line towards the South Sea when that line is to terminate within 20 or 30 Miles from the Atlantick? Such absurdities can never be received. The Province Charter was drawn up by Mr. *Blatbwayt*, what acquaintance he had with Geography is uncertain. Some degree was necessary in order accurately to describe the boundaries of the two Colonies of *Massachusetts* and *New-Plymouth* united. The description in the Charter is certainly very inaccurate and there is a necessity of recurring to the standard the original bounds of the two Colonies when separate, both of which are plain and intelligible. There is the same inaccuracy in describing the Province of *Main*. In the *Massachusetts* Charter one entire side of that Province is left out. There was a necessity therefore of recurring to the Original Grant to Sir *Ferdinando Gorges*, in order to make certain what would otherwise have been liable to cavils and disputes.

The Lands claimed by the Province of *New-York* which ly to the North of the *Massachusetts* South line being thus evidently contained in the *Massachusetts* Colony and Province Charter, the Government of the *Massachusetts* have an undoubted right of Jurisdiction and Property there, unless by any subsequent Acts or any Considerations in equity they are deprived of it. Nothing has been done by the *Massachusetts* to invalidate their right. The Agreement between the *Dutch* Governor and the Commissioners of the united Colonies in 1650 respected the bounds of *Newhaven* Colony only, or if this Agreement should be insisted upon, the utmost which *New-York* can claim by virtue of it will be a Line ten Miles East of *Hudson's* River. The Settlement made by *Nichols* and others Commissioners from the Crown in 1664 will be still less favourable to *New-York*, and they can claim no Lands by force of it to the Eastward of *Hudson's* River. The other Agreement in 1684 was made at a time when the surrender of *Connecticut* Charter was demanded by King CHARLES, and had a



Tract still more extensive than 20 Miles from *Hudson's* River been required from them it would have been of very little Consequence for them to have refused it, when they expected every day the loss of the whole contained in their Charter ; and if they had any chance at all for favour, this Compliance was the most likely way to increase the chance. And although the Agreement was afterwards confirmed in 1701, yet *Connecticut* have ever complained of it as a grievance, and by one opposition after another kept off the final Ratification until the Year 1734. An arbitrary Settlement of the line with *Connecticut* can by no means affect the *Massachusetts* Province. *New-York* must avail itself then from equitable Considerations or its Title must entirely fail. The only pretence in equity must be long continued possession and improvements.

In the Year 1667 a Grant is said to have been made by *Dongan* Governor under the Duke of *York* to one *Van Renslaer*, a *Dutchman*, 24 Miles in length upon *Hudson's* River, and as many Miles on each side the River. The Descendants of the Grantee claim a right to the Lands contained in this Grant to this Day. The whole of this Tract on the East side of the River, except a Settlement upon the River and a few Cottages at little distance from it, lay neglected and unsettled for above sixty Years. By far the greatest part of another tract of 20 Miles square or more, granted to *Robert Livingston*, lay for near the same length of Time in the same state. In the time of Lord *Bellamont's* Administration sundry Grants less extravagant than either of these were resumed and declared void. The two Families of *Renslaer* and *Livingstone* have had influence sufficient within the Government of *New-York* to preserve their more unreasonable Grants from the like fate. After the conclusion of the War in 1648, the *Massachusetts* Government having had the greatest part of their unimproved Lands taken from them and annexed to *New-Hampshire*, many of the Inhabitants pitched their Cottages upon the unimproved Lands in the western parts of the Province, and cleared each of them more or less Land. The Government which has always made the Settlement of the Country their principal object in all the Grants which they have made, upon application from these Settlers was willing to quiet them in their Possessions although entred upon without Licence. The Grantees from *New-York*, the lines of whose Grants or pretended Grants had



had never been run, by force and violence drove some of the Settlers off those Lands and persuaded others to attorn to them, but by far the greatest part of these Tracts remain unimproved; whereas had not the *Massachusetts* Government been unjustly hindered from the Possession of them, the whole would have been settled in regular orderly Towns many Years ago. During the War which preceded the Peace of *Aix la Chapelle*, the Lands in controversy were covered, and the few Inhabitants settled there rendered in a great measure secure by a line of Ports maintained at the sole expence of the *Massachusetts* Government. It is upon the whole humbly submitted whether *New-York*, having granted Lands not within their Jurisdiction, the Grantees having paid no Consideration, the greatest part of the Lands granted having been derelict and without any attempts of Settlement for sixty Years together, it can be thought just and reasonable that the Property of these Lands should be adjudged to the Grantees, and the Jurisdiction to the Province of *New-York*, and thereby the Grant of Jurisdiction and Property in the same Lands by the *Massachusetts* Charter be rendered of no effect.

The Title of his Majesty's Province of *Massachusetts-Bay* to the Jurisdiction of the Towns of *Suffield*, *Enfield*, *Somers* and *Woodstock*.

**B**Y the Charter of the old Colony of *Massachusetts-Bay*, all the Lands lying between three Miles North of *Merrimack* River and every part thereof, and three Miles South of *Charles* River and every part thereof in breadth and from the Atlantick to the South Sea in length and Longitude, within the breadth and Latitude aforesaid, are granted to the Jurisdiction of that Colony or Corporation. This Grant was made *March* 4. 1628.

In 1636 a large number of the *Massachusetts* Colony removed from the Towns of *Cambridge*, *Watertown*, *Roxbury* and *Dorchester* to *Connecticut* River, and settled the Towns of *Springfield*, *Windsor*, *Hartford* and *Weathersfield*, and by virtue of a Commission and supposed Authority from the *Massachusetts-Bay*, were formed into a Government or Political Body and continued united two Years.

In



In 1638 the Inhabitants of *Springfield* sensible that they lay within the bounds of the *Massachusetts*, petitioned the General Court that they might be separated from the other Towns upon the River and received under the immediate Jurisdiction of the *Massachusetts*. Their Petition was granted, and *Springfield* was ever after considered as a Member of that Colony.

In 1641 the *Massachusetts* in order to ascertain their South boundary appointed certain Persons to discover the Southernmost part of *Charles River*, and to begin three Miles South from thence, and to run a West Course unto *Connecticut River*. This was done in 1642 by *Nathaniel Woodward* and *Solomon Saffrey* who are called Mathematicians and a correct Plan returned, and now remains amongst and part of the *Massachusetts* Records. The Line thus run struck the House of one *Bissett* at *Windsor*, who kept the Ferry over *Connecticut River*.

The Inhabitants of *Connecticut* in 1662 made application to King CHARLES the second for a Royal Charter which was granted, and the Colonies of *Connecticut* and *New-Haven* were incorporated into one Colony, the North boundary of which was the South bounds of the *Massachusetts* Colony. At that Time the Line run by *Woodward* and *Saffrey* had been twenty Years the reputed boundary of the *Massachusetts* and Jurisdiction constantly exercised accordingly.

The Towns of *Suffield*, *Enfield*, *Somers* and *Woodstock* at different Times have been incorporated by the *Massachusetts* Government and Jurisdiction exercised over them, and the Inhabitants derive their Titles to their Possessions there from the Grants thereof made by the General Court of the *Massachusetts* Colony.

The Inhabitants of the Town of *Woodstock* from the Year 1686 until the end of the War in the Reign of Queen ANN, were much exposed to the Enemy, and were defended and protected at the Charge of the *Massachusetts* Government.

Contention and Law Suits arose between the Inhabitants of *Windsor* and *Enfield* about their boundary Lines, and in the Year 1713, *Elisha Hutchinson* and *Isaac Addington*, Esqrs; were appointed on the part of the *Massachusetts*, and  
*William*



*William Pitkin* and *William Whiting*, Esqrs; on the part of *Connecticut*, to settle the Line between the two Colonies according to the Province Charter.

The said Commissioners agreed that the Towns of *Suffield* and *Enfield* of which *Somers* was part, and *Woodstock* all having been granted by the *Massachusetts* Colony, should remain within the Jurisdiction of the *Massachusetts* Province, although by the new running of the Line they should appear to ly to the Southward thereof, saving a part of *Suffield* only.

They further agreed that the station from which *Woodward* and *Saffery* began the Line should be the station for beginning the Line proposed to be run. The Line was accordingly from that station run due west, the variation being 9 degrees, and by this Line the aforesaid Towns were excluded from the *Massachusetts* according to the bounds in the Charter.

The Contents of those Townships and of several other tracts of Land, the Property of which it was likewise agreed should remain in Grantees from the *Massachusetts*, appeared to amount to 107793 Acres.

A Grant was made to the Colony of *Connecticut* by the Government of the *Massachusetts* of the Property of unappropriated Lands lying within said Government as an equivalent for the Lands which had been thus granted by the *Massachusetts* within the bounds of *Connecticut*, and the Government of that Colony accepted them as such, and made Sale of the same.

The Inhabitants of the Town of *Suffield* in the Year 1732 petitioned the General Court of the *Massachusetts* setting forth that by the Agreement and running of the Line in the Year 1713, part of the common Lands belonging to that Town were suffered to pass from them to the Jurisdiction of *Connecticut*, and therefore praying that an equivalent might be given them, and the General Court granted a tract of Land containing above twenty thousand Acres, which the Inhabitants of that Town disposed of as they thought proper.



The several Towns remained under the Jurisdiction of the *Massachusetts* until the Year 1745, when the successful but very expensive Expedition against *Louisbourg* was undertaken, they then were represented in the General Court and many of their Inhabitants were Officers and Soldiers in that Expedition in the Pay of the Province.

The Taxes on the Inhabitants of the Province being great and the Province being involved in a Debt far greater in Proportion than that of *Connecticut*, and the Towns being in Arrears in the Year 1747, the Inhabitants refused subjection to the *Massachusetts* and applied to *Connecticut* to receive them within their Jurisdiction and to afford them Protection.

The Government of *Connecticut* did not immediately comply with their request but in a short time by a vote or act of Assembly extended the County of *Windham* to their Colony Line, and then pretending that the Town of *Woodstock* was within the bounds of that County they admitted their Representatives into the Assembly, and the Officers of the County of *Windham* exercised Jurisdiction in *Woodstock*, and the other Towns were challenged as lying within the County of *Hartford*.

The Inhabitants of these Towns revolting in this manner in a Time of War when intestine Quarrels within his Majesty's Colonies would have proved of bad consequence to his Majesty's Interest, the Government of the *Massachusetts* forbore any violent methods to compel the said Inhabitants to their duty, and chose rather humbly to pray his Majesty's most gracious Order to the Government of *Connecticut* to comply with their solemn Agreement, and after the conclusion of the War the *Massachusetts* still forbore any Compulsory means, the rather because the Governor of *Connecticut* had insinuated in his Letter of November 1749, that force would be opposed to force, and the said Government of the *Massachusetts* have been ever since waiting for a Royal Determination.

The *Massachusetts* humbly hope that his Majesty will be graciously pleased to approve of and confirm the Settlement of the Line by the two Governments for the following Reasons.

1st. Because



1st. Because there was no design in the Government of the *Massachusetts* Colony when the line was run by *Woodward* and *Saffery* in 1642 to exceed their true Boundary, but the said line was then and long after apprehended to be the true line of Jurisdiction.

2d. Because the said Towns when granted and incorporated were really apprehended to be within the Jurisdiction of the *Massachusetts*, they were peopled by the Inhabitants of that Government, have always been protected and defended at their Expence.

3d. Because *Connecticut* Charter being granted when this was the reputed line of the *Massachusetts* Colony, and upon which *Connecticut* was bounded, that Colony would lose nothing of what was intended to be granted to them either of Jurisdiction or Property if the Towns had remained to the *Massachusetts* and no equivalent had been made.

4th. Because the *Massachusetts* waiving all other Advantages, for the Jurisdiction of these Towns only and to gratify the Inhabitants thereof gave up a large extent of Country to *Connecticut*, of which they had been in possession more than seventy Years, the Jurisdiction of which has been in the Government of *Connecticut* ever since, and also gave an equivalent in other Lands, which *Connecticut* accepted as such and made Sale thereof.

The only Objection made by *Connecticut* or the Inhabitants of the revolted Towns is this, viz. that the Agreement was void it not being in the power of the legislative Body of either Government to make any alteration in the lines of Jurisdiction without his Majesty's Leave and Approbation.

To this it may be answered that the Proceedings of the *Massachusetts* Government are from time to time transmitted to the Lords of Trade, and that this Agreement in particular was at the time of it (being at large in the *Massachusetts* Records) thus transmitted, and that no disapprobation thereof has ever been signified. That there are frequent instances of the Royal Recommendations to contending Colonies to settle their Lines by Commissioners mutually chosen, and that in the dispute between the Provinces of *Massachusetts* and *New-Hampshire* divers Years before Commissioners were appointed in *England*, it was recommended



recommended to the two Assemblies to settle the Controversy themselves. That the late Controversy between *Maryland* and *Pennsylvania* is a case very much in Point, and the contracting Party which would have departed from the Agreement was finally held to the Performance thereof. And lastly that as there can be no room to doubt that if this Agreement had been laid before her late Majesty Queen ANN, in whose Reign it was made, it would then have received the Royal Confirmation; so at this Day after having been acquiesced in more than thirty Years there is the greatest reason humbly to expect that his present Majesty will not suffer either Party to depart from it.

The Case of the Province of *Massachusetts-Bay* respecting it's Claim to a reimbursement of the Charge of supporting Fort-*Dummer*, and the other Parts of the Frontier of *New-Hampshire*.

IN 1677 upon the Petition of *Robert Mason* stiling himself Proprietary of *New-Hampshire* to King CHARLES the Second in Council, complaining of Encroachments made by the Colony of *Massachusetts-Bay* it was ordered and determined that a Line three Miles Northward of *Merrimack*, as far as the River ran was the boundary of the *Massachusetts* Colony, and when that line determined the boundary was to be by imaginary Lines to the South Sea.

In consequence of this Order the *Massachusetts* were put out of Possession of the Province of *New-Hampshire*, which had been under their Jurisdiction above thirty Years, and both Provinces supposed the *Massachusetts* Line to extend three Miles North of *Merrimack* as far as *Winepisiackee* Lake, and then a West Line to the South Sea.

In consequence hereof the *Massachusetts* made Grants of Townships upon *Merrimack* River, and between that and *Connecticut* River, and were at great expence in settling and defending the same.

About the Year 1730 *New-Hampshire* set up a New Claim and urged that a Line to begin three Miles North of the Mouth of *Merrimack* River, and to run from thence West to the South Sea was the true Line of the *Massachusetts* Province, and after many Years Controversy it was finally



finally determined by his late Majesty in Council, That the said Line should run three Miles North of the said River as high up as *Pantucket Falls*, and then extend due West. By this new Determination many Townships granted by the *Massachusetts* fell within the Province of *New-Hampshire*, and the greatest part of the Grantees were deprived of their Property.---A certain Fort called Fort *Dummer* which had been supported many Years by the *Massachusetts*, also fell within *New-Hampshire*.

The General Court of the *Massachusetts* declined being at any further Charge upon the Fort, but Mr. *Shirley* the Governor continued a Garrison there and obtained Grants for the Payment thereof, although no Establishment had been made, but upon the refusal of the said General Court to make any further Grants, the said Mr. *Shirley* represented to his late Majesty the necessity of keeping a Garrison, and in consequence thereof His Majesty was pleased on 6th September 1744, to order in Council "That the Governor of *New-Hampshire* should move the Assembly there to make proper Provision for the Support of Fort *Dummer*, and inform them that if they refused, His Majesty would find himself under a necessity of restoring that Fort with a proper District contiguous thereto, to the Province of *Massachusetts-Bay*, who cannot with justice be required to maintain a Fort no longer within their Boundary. But the Governor of the *Massachusetts-Bay* was directed in mean Time to represent to the Assembly there, the necessity of continuing to provide for the Security of Fort *Dummer*, until a final Answer could be obtained from *New-Hampshire*, and his Majesty's pleasure be signified therein---

The Assembly of *New-Hampshire* refused to make any Establishment for the Garrison at said Fort upon this Order it's being communicated to them, and although some Time after some Votes or Orders passed the said Court for such Establishment, yet they were upon such Terms or of such a Nature, that the said Mr. *Shirley* did not suppose that consistent with the said Order he could deliver up the Fort.

Upon the further recommendations of the Governor and assurance given that the necessary defence of the other parts of the new Frontier of *New-Hampshire* neglected by the General Court of that Province would be considered as within the reason of the Royal Order respecting Fort-



*Dummer* the General Court of the *Massachusetts* provided not only for the support of *Fort-Dummer* for divers Years, but for the defence of other parts of the Frontiers also, a particular account whereof has been transmitted to the Agent.

The humble Petition of the Province has been preferred to his late Majesty in Council, praying for Consideration and recompence for the said Expences.

This Petition has lain many Years undetermined during which the Lands contiguous to *Fort-Dummer* and near two hundred Townships besides have been granted within the Province of *New-Hampshire*, a small part only of which are under any Improvement or Settlement.

It is therefore humbly relied upon by the *Massachusetts-Bay* that the said Province of *New-Hampshire* will be required to reimburse the Charge of supporting the said Fort and Frontiers as aforesaid, or that the *Massachusetts-Bay* may be relieved in such other way and manner as his Majesty in his Wisdom shall judge meet.





# A T A B L E

Exhibiting the Variation of the Compass in *Boston* and the Parts adjacent ; from the earliest accounts of it, to the end of the 18th Century ; agreeable to the actual Observations distinguished by Obs. By *John Winthrop*, Esq; Hollisian Professor of Mathematicks at *Harvard-College* in *Cambridge*, in *New-England*.

Years.	BOSTON.	Variation at FALMOUTH.	PENOBSCOT.
1673	11° 15'	12° 0'	12° 8'
1678	11 0	11 45	11 53
1689	10 30	11 15	11 23
1700	10 0 Obs.	10 45	10 53
1705	9 46	10 31	10 39
1710	9 32	10 17	10 25
1715	9 18	10 3	10 11
1720	9 5	9 50	9 58
1725	8 51	9 36	9 44
1730	8 37	9 22	9 30
1735	8 23	9 8	9 16
1742	8 0 Obs.	8 45	8 53
1745	7 56	8 41	8 49
1750	7 42	8 27	8 35
1757	7 20 Obs.	8 5	8 13
1761	7 7	7 52	8 0 Obs.
1763	7 0 Obs.	7 45 Obs.	7 53
1770	6 46	7 31	7 39
1775	6 32	7 17	7 25
1780	6 18	7 3	7 11
1785	6 4	6 49	6 57
1790	5 50	6 35	6 43
1795	5 36	6 21	6 29
1800	5 22	6 7	6 15



# TABLE

Showing the Variation of the Count in the  
 and this is shown; from the count  
 counts of 10 to 100 of the 100 Count  
 agreeable to the above Observation  
 by O. B. Jones, Esq. M.D.  
 Professor of Mathematics at Harvard College  
 in Cambridge, New England.

Count	Frequency	Variation	Frequency	Count
100	1	0	1	100
99	1	1	1	99
98	1	2	1	98
97	1	3	1	97
96	1	4	1	96
95	1	5	1	95
94	1	6	1	94
93	1	7	1	93
92	1	8	1	92
91	1	9	1	91
90	1	10	1	90
89	1	11	1	89
88	1	12	1	88
87	1	13	1	87
86	1	14	1	86
85	1	15	1	85
84	1	16	1	84
83	1	17	1	83
82	1	18	1	82
81	1	19	1	81
80	1	20	1	80
79	1	21	1	79
78	1	22	1	78
77	1	23	1	77
76	1	24	1	76
75	1	25	1	75
74	1	26	1	74
73	1	27	1	73
72	1	28	1	72
71	1	29	1	71
70	1	30	1	70
69	1	31	1	69
68	1	32	1	68
67	1	33	1	67
66	1	34	1	66
65	1	35	1	65
64	1	36	1	64
63	1	37	1	63
62	1	38	1	62
61	1	39	1	61
60	1	40	1	60
59	1	41	1	59
58	1	42	1	58
57	1	43	1	57
56	1	44	1	56
55	1	45	1	55
54	1	46	1	54
53	1	47	1	53
52	1	48	1	52
51	1	49	1	51
50	1	50	1	50
49	1	51	1	49
48	1	52	1	48
47	1	53	1	47
46	1	54	1	46
45	1	55	1	45
44	1	56	1	44
43	1	57	1	43
42	1	58	1	42
41	1	59	1	41
40	1	60	1	40
39	1	61	1	39
38	1	62	1	38
37	1	63	1	37
36	1	64	1	36
35	1	65	1	35
34	1	66	1	34
33	1	67	1	33
32	1	68	1	32
31	1	69	1	31
30	1	70	1	30
29	1	71	1	29
28	1	72	1	28
27	1	73	1	27
26	1	74	1	26
25	1	75	1	25
24	1	76	1	24
23	1	77	1	23
22	1	78	1	22
21	1	79	1	21
20	1	80	1	20
19	1	81	1	19
18	1	82	1	18
17	1	83	1	17
16	1	84	1	16
15	1	85	1	15
14	1	86	1	14
13	1	87	1	13
12	1	88	1	12
11	1	89	1	11
10	1	90	1	10
9	1	91	1	9
8	1	92	1	8
7	1	93	1	7
6	1	94	1	6
5	1	95	1	5
4	1	96	1	4
3	1	97	1	3
2	1	98	1	2
1	1	99	1	1







